

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

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MIDDLE DISTRICT OF FLORIDA
TAMPA, FLORIDA

UNITED STATES OF AMERICA

v.

SAMI AMIN AL-ARIAN, et al.

Case No. 8:03-cr-77-T-30TBM

UNITED STATES' RESPONSE IN OPPOSITION
TO DEFENDANT SAMI AMIN AL-ARIAN'S PRO SE
MOTION SEEKING ACCESS TO THE FISA FACSIMILES
IN CHRONOLOGICAL ORDER AND SIMULTANEOUSLY
WITH THE FISA TELEPHONE INTERCEPTS

The United States opposes the defendant Al-Arian's pro se motion¹ seeking access to the FISA facsimiles in chronological order and simultaneously with the FISA telephone intercepts, D-275, and in support, states as follows:

1. Defendant Al-Arian is requesting that this Court order the United States to produce all intercepted FISA communications, including facsimiles, simultaneously and in chronological order to expedite his discovery review

2. The United States anticipates that the defendants will soon be provided with copies of most of the facsimiles relevant to allegations contained in the indictment. Cassette tapes containing audio intercepts alleged in the indictment have previously been provided to all defendants.

3. Recently the defendants were provided with copies of conversations recorded after 1996. These disks (MODs converted to MP3 format) are audible with

¹This motion was filed before defendant Al-Arian retained counsel.

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the portable devices the incarcerated defendants may possess in their cells.² These disks are marked with the communication facility intercepted and the time and dates of the conversations they contain.

4. The United States also anticipates providing copies of any facsimiles not charged in the indictment in the government's possession. Review for this type of facsimile is being conducted at the present time.³ Once this review is complete, the United States will copy these faxes and provide them to the defendants pursuant to its continuing discovery obligations.

5. To require the government to simultaneously produce the audio intercepts and hard copies of the facsimiles simultaneously and chronologically would significantly delay the discovery process for all the defendants.

²In our view, the vast majority of the recorded conversations are irrelevant to the case. Therefore, these devices should have a fast-forward function and/or skip function enabling the listener to skip irrelevant conversations.

³Special software for the demodulation of facsimiles intercepted and recorded in an MOD format has been created for the FBI. This software is not available to the general public and may be cost prohibitive (\$100,000 per unit) even if the company did agree to release the software. After the FBI completes the conversion of conversations on the MODs, the FBI will begin demodulating the faxes intercepted on the MOD format. Likewise, although there are no technical means to recover facsimiles captured on the reel-to-reel format (which is an analog format), special proprietary software has been created for the FBI to attempt to capture these facsimiles. Accordingly, the demodulation of facsimiles in the reel-to-reel format is not as successful as demodulation from the MOD (digital) format. Again, this software is not available to the general public.

Accordingly, the United States requests that this Court deny defendant Al-Arian's motion.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent by facsimile and U.S. mail this 4th day of November, 2003, to the following:

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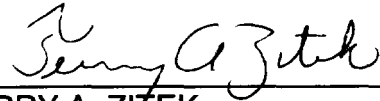
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